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GOVERNOR ANDREW M. CUOMO

GOVERNOR CUOMO ANNOUNCES \$86.2 MILLION IN SETTLEMENTS WITH 4 UTILITIES FOR FAILURES RELATED TO POWER OUTAGES AND EMERGENCY RESPONSE INCLUDING TROPICAL STORM ISAIAS

Tropical Storm Isaias Left More than 900,000 Utility Customers Without Service

Utility Payments Regarding TS Isaias and Other Failures Total Nearly \$190 Million

Investigations and Settlements Resolved Less Than 1 Year After TS Isaias

Utilities Required to Develop More Robust Storm Response Programs and Enhance Communication and Coordination with Municipal and County Governments

Governor Andrew M. Cuomo today announced that the New York State Public Service Commission has accepted the terms of settlements valued at \$86.2 million regarding alleged violations committed by four New York utilities—Consolidated Edison of New York, Orange & Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, and Frontier Communications of New York, Inc.—for failing to adequately prepare for and respond to emergencies, including Tropical Storm Isaias in 2020.

"The size of these settlements should make it abundantly clear that New York utilities are obligated to prepare for severe weather and to develop robust emergency response programs," **Governor Cuomo said**. "If they fail to adequately do the job that's required of them, we will hold them accountable and we will force them to improve the way they do business — and their shareholders will pay the price."

For failing to adequately prepare for and respond to the TS Isaias, as well as failures related to the 2019 Brooklyn/Manhattan outages, and a steam outage in 2018, Con Edison and O&R will pay \$82.05 million. For failing to adequately prepare and respond to TS Isaias, Frontier and Central Hudson will pay \$2.7 million and \$1.5 million, respectively.

Today's settlements add to a previously announced \$72 million settlement with broadband provider Altice and the \$1.5 million settlement with New York State Electric & Gas Corp. related to those companies' failures to prepare and respond to TS Isaias, and \$30 million forfeited by PSEG Long Island to resolve then-pending litigation related to PSEG LI's management failures during TS Isaias. These settlements resolve all open

investigations related to TS Isaias, less than one year after TS Isaias made landfall in New York State.

The total for all the settlements is nearly \$190 million. The money from the settlements will be used to offset costs that would have been otherwise borne by customers. Many requirements found in the settlement related to TS Isaias were developed with input from local elected officials and community groups, such as United Westchester. Among the many requirements set forth in the settlement is that Con Edison and the other utilities develop more robust storm-response programs and enhance communication and coordination with municipal and county governments.

On August 4, 2020, TS Isaias struck New York, bringing strong winds and heavy rain that particularly impacted the Mid-Hudson, New York City, and Long Island regions. The storm caused extensive damage to electric distribution infrastructure that, in turn, led to lengthy outages for a substantial number of New York utility customers. Peak outages affected approximately 900,000 customers. The next day, Governor Cuomo directed the Department of Public Service to immediately launch an expedited investigation into utility performance. The Department of Financial Services supported the investigation with its extensive legal and forensic resources, allowing for a more timely and comprehensive review.

New York State Public Service Commission Chair John B. Howard said, "Maintaining reliability and service is a fundamental utility responsibility, and the Commission holds utilities accountable if they fail to meet their responsibility. I am proud how expeditiously this investigation began, how diligently the investigation was pursued, and I am very pleased with its positive outcome for customers. Given the fact that customers pay for utilities' operations, if those operations are mismanaged, then customers should not be held liable. Utility shareholders should pay to remedy such situations and these penalties should serve as a deterrent to avoid repeat situations. The money coming from shareholders will go directly to invest in making the utilities more reliable and to be better positioned to meet customer needs in the future."

Superintendent of Financial Services Linda A. Lacey said, "New Yorkers have every right to expect reliability from their electric utilities, especially during the summer heat and at a time when so many of us work and attend school remotely. This settlement not only provides a measure of financial compensation for consumers impacted in the aftermath of Tropical Storm Isaias, but also necessitates Con Edison, O&R, Central Hudson and Frontier to make significant investments in their operations and systems to prevent storm outages and more swiftly recover from those that do occur. I thank the DPS leadership and staff for their hard work to resolve this matter for the benefit of the people as New York continues to rebuild and recover."

Rory I. Lancman, Special Counsel for Ratepayer Protection, said, "These settlements of record size in record time, together with the greatly enhanced storm response requirements, reflect the Governor's determination to protect ratepayers by both holding utilities accountable for their failures and ensuring that they are better prepared for future storm events. There is a laser focus at the Department and throughout the administration on preparedness and accountability, and any utility doubting that does so at its peril."

Con Edison and O&R's \$82.05 million settlement includes resolving investigations related to several incidents:

- **2020 TS Isaias:** The Department's investigation found 33 alleged violations of Con Edison's emergency response plan 38 alleged violations of O&R's emergency response plan related to, among other things, faulty storm classifications, inadequate storm staffing, inadequate communications with municipal officials and the media, and failure to comply with metrics related to contacts with life-support equipment customers. The settlement also includes issues related to a TS Isaias-related outage at the company's Rainey substation.
- **2019 Brooklyn Outage:** On July 21, 2019, the electric system that serves the Flatbush network in Southeast Brooklyn experienced a series of events that affected the network's reliability. The Department's investigation identified seven alleged violations of Con Edison's emergency response plan related to municipal and customer communications, and four alleged violations of the Commission's outage notification requirements.
- **2019 Manhattan Outage:** On July 13, 2019, approximately 73,000 Con Edison customers on the West Side of Manhattan lost electric service. Con Edison restored service to all customers in less than five hours the same day. Based on the investigation, the Department alleged that Con Edison missed three opportunities to detect and fix the missing wiring associated with the Manhattan outage, and thus acted imprudently.
- **2018 Steam Incident:** On July 19, 2018, a Con Edison steam pipe ruptured in the Flatiron district of Manhattan at Fifth Avenue and 21st Street. Within minutes, Con Edison personnel arrived at the scene, initiated its emergency plan, and worked with firefighters to evacuate and secure the area. No one was seriously injured. The Department's investigation identified apparent imprudent acts and omissions with the company's operation and maintenance of the associated steam plant and its impact on the water hammer event.

Additionally, TS Isaias left thousands of Central Hudson customers without power, some for several days. Upon investigation, the Commission alleged 32 violations of Central Hudson's emergency response plan, related to, among other things, faulty storm classifications, inadequate storm staffing, inadequate communications staffing personnel, and the failure to comply with metrics related to contacts with life support-equipment customers. To settle the investigation, Central Hudson will pay \$1.5 million.

TS Isaias also left many Frontier Communication customers without service for a significant period of time, and Frontier's Sullivan and Orange County networks experienced several critical outages, including an equipment failure that caused the loss of service to 5,800 customers as well as the loss of 9-1-1 network in Orange County, leaving citizens without the ability to call for emergency help. The Department's investigation found that Frontier was in apparent violation of Commission regulations,

including that Frontier did not implement procedures, test or operate equipment at certain central offices. To settle the investigation, Frontier will pay \$2.7 million.

In a related development, the Commission approved amended electric emergency response plans for the state's major electric utilities, and directed each utility to file its approved plan with the county executive, the chief elected official of a county for each county within its service territory, or the emergency management office of the City of New York. The amended emergency response plans reflect corrective actions following TS Isaias.